

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## SENATE ENROLLED ACT No. 205

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AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 20-24-4-1, AS AMENDED BY P.L.280-2013, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A charter must meet the following requirements:

- (1) Be a written instrument.
- (2) Be executed by an authorizer and an organizer.
- (3) Confer certain rights, franchises, privileges, and obligations on a charter school.
- (4) Confirm the status of a charter school as a public school.
- (5) Be granted for:
  - (A) not less than three (3) years **or more than seven (7) years**; and
  - (B) a fixed number of years agreed to by the authorizer and the organizer.
- (6) Provide for the following:
  - (A) A review by the authorizer of the charter school's performance, including the progress of the charter school in achieving the academic goals set forth in the charter, at least one (1) time in each five (5) year period while the charter is in effect.
  - (B) Renewal, if the authorizer and the organizer agree to renew

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the charter.

(C) The renewal application must include guidance from the authorizer, and the guidance must include the performance criteria that will guide the authorizer's renewal decisions.

(D) The renewal application process must, at a minimum, provide an opportunity for the charter school to:

- (i) present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;
- (ii) describe improvements undertaken or planned for the charter school; and
- (iii) detail the charter school's plans for the next charter term.

(E) Not later than October 1 in the year in which the charter school seeks renewal of a charter, the governing board of a charter school seeking renewal shall submit a renewal application to the charter authorizer under the renewal application guidance issued by the authorizer. The authorizer shall make a final ruling on the renewal application not later than March 1 after the filing of the renewal application. The March 1 deadline does not apply to any review or appeal of a final ruling. After the final ruling is issued, the charter school may obtain further review by the authorizer of the authorizer's final ruling in accordance with the terms of the charter school's charter and the protocols of the authorizer.

(7) Specify the grounds for the authorizer to:

- (A) revoke the charter before the end of the term for which the charter is granted; or
- (B) not renew a charter.

(8) Set forth the methods by which the charter school will be held accountable for achieving the educational mission and goals of the charter school, including the following:

- (A) Evidence of improvement in:
  - (i) assessment measures, including the ISTEP and end of course assessments;
  - (ii) attendance rates;
  - (iii) graduation rates (if appropriate);
  - (iv) increased numbers of Core 40 diplomas and other college and career ready indicators including advanced placement participation and passage, dual credit participation and passage, and International Baccalaureate participation and passage (if appropriate);



- (v) increased numbers of academic honors and technical honors diplomas (if appropriate);
  - (vi) student academic growth;
  - (vii) financial performance and stability; and
  - (viii) governing board performance and stewardship, including compliance with applicable laws, rules and regulations, and charter terms.
- (B) Evidence of progress toward reaching the educational goals set by the organizer.
- (9) Describe the method to be used to monitor the charter school's:
- (A) compliance with applicable law; and
  - (B) performance in meeting targeted educational performance.
- (10) Specify that the authorizer and the organizer may amend the charter during the term of the charter by mutual consent and describe the process for amending the charter.
- (11) Describe specific operating requirements, including all the matters set forth in the application for the charter.
- (12) Specify a date when the charter school will:
- (A) begin school operations; and
  - (B) have students attending the charter school.
- (13) Specify that records of a charter school relating to the school's operation and charter are subject to inspection and copying to the same extent that records of a public school are subject to inspection and copying under IC 5-14-3.
- (14) Specify that records provided by the charter school to the department or authorizer that relate to compliance by the organizer with the terms of the charter or applicable state or federal laws are subject to inspection and copying in accordance with IC 5-14-3.
- (15) Specify that the charter school is subject to the requirements of IC 5-14-1.5.

(b) A charter school shall set annual performance targets in conjunction with the charter school's authorizer. The annual performance targets shall be designed to help each school meet applicable federal, state, and authorizer expectations.

SECTION 2. IC 20-24-9-1, AS AMENDED BY P.L.91-2011, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. **(a) A sponsor authorizer** that has established a charter school shall submit an annual report to the department **and the state board** for informational and research purposes. **The authorizer shall make the annual report available on the**



authorizer's Internet web site.

**(b) The department and state board shall make all annual reports submitted under subsection (a) available on the department's and state board's Internet web sites.**

SECTION 3. IC 20-24-9-2, AS AMENDED BY P.L.280-2013, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. An annual report under this chapter must contain the following information:

- (1) Results of all standardized testing, including ISTEP program testing, end of course assessments, and any other assessments used for each authorized school.
- (2) Student growth and improvement data for each authorized school.
- (3) Attendance rates for each authorized school.
- (4) Graduation rates (if appropriate), including attainment of Core 40 and academic honors diplomas for each authorized school.
- (5) Student enrollment data for each authorized school, including the following:
  - (A) The number of students enrolled.
  - (B) The number of students expelled.
- ~~(6) Schools that closed or for which the charter was not renewed, and the reasons for the closure or nonrenewal.~~ **Status of the authorizer's charter schools, identifying each of the authorizer's charter schools that are in the following categories:**
  - (A) Approved but not yet open.**
  - (B) Open and operating.**
  - (C) Closed or having a charter that was not renewed, including:**
    - (i) the year closed or not renewed; and**
    - (ii) the reason for the closure or nonrenewal.**
- (7) Names of the authorizer's board members or ultimate decision making body.
- (8) Evidence that the authorizer is in compliance with IC 20-24-2.2-1.5.
- (9) A report summarizing the total amount of administrative fees collected by the authorizer and how the fees were expended, if applicable.
- (10) Total amount of other fees or funds not included in the report under subdivision (9) received by the authorizer from a charter school and how the fees or funds were expended.**
- (11) The most recent audits for each authorized school**



**submitted to the authorizer under IC 5-11-1-9.**

SECTION 4. IC 20-26-7-1, AS AMENDED BY P.L.17-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) As used in this section, "charter school" has the meaning set forth in IC 20-24-1-4 and includes a group or entity seeking approval from a sponsor to operate a charter school under IC 20-24-3.

(b) Except as otherwise provided in this section, if a governing body of a school corporation determines that any real or personal property:

- (1) is no longer needed for school purposes; or
- (2) should, in the interests of the school corporation, be exchanged for other property;

the governing body may sell or exchange the property in accordance with IC 36-1-11.

(c) Money derived from the sale or exchange of property under this section shall be placed in any school fund:

- (1) established under applicable law; and
- (2) that the governing body considers appropriate.

(d) A governing body may not make a covenant that prohibits the sale of real property to another educational institution.

(e) This subsection does not apply to a school building that on July 1, 2011, is leased or loaned by the school corporation that owns the school building to another entity, if the entity is not a building corporation or other entity that is related in any way to, or created by, the school corporation or the governing body. Except as provided in subsections (k) through (n), a governing body shall make available for lease or purchase to any charter school any school building owned by the school corporation or any other entity that is related in any way to, or created by, the school corporation or the governing body, including but not limited to a building corporation, that:

- (1) either:
  - (A) is not used in whole or in part for classroom instruction at the time the charter school seeks to lease the building; or
  - (B) appears on the list compiled by the department under subsection (f); and

(2) was previously used for classroom instruction; in order for the charter school to conduct classroom instruction.

(f) Not later than August 1 each calendar year, each governing body shall inform the department if a school building that was previously used for classroom instruction is closed, unused, or unoccupied. The department shall maintain a list of closed, unused, or unoccupied school buildings and make the list available on the department's



Internet web site. Each school corporation shall provide a list of closed, unused, or unoccupied buildings to the department by the date set by the department. The department must update the list ~~each year before August 31~~. **not later than fifteen (15) days after being notified of a closed, unused, or unoccupied building.**

(g) A school building that appears for the first time on the department's list under subsection (f) shall be designated as "Unavailable until (a date two (2) years after the school building first appears on the list)" if the governing body of the school corporation that owns the school building indicates to the department, on a form prescribed by the department, that the school building may be reclaimed during that period for classroom instruction. If a governing body does not indicate that a school building may be reclaimed, the governing body shall designate the school building as "Available" on the department's list. The governing body may change the designation of a building from unavailable to available at any time. If a school building that is designated as unavailable on the department's list remains unused for classroom instruction one (1) year after being reclaimed under this subsection, the governing body shall designate the school building as "Available" on the department's list. A governing body may reclaim a school building only one (1) time under this subsection.

(h) If a charter school wishes to use a school building on the list created under subsection (f), the charter school shall send a letter of intent to the department. Within thirty (30) days after receiving a letter from a charter school, the department shall notify the school corporation of the charter school's intent, and, within thirty (30) days after receiving notification from the department, the school corporation that owns the school building shall lease the school building to the charter school for one dollar (\$1) per year for as long as the charter school uses the school building for classroom instruction or for a term at the charter school's discretion, or sell the school building to the charter school for one dollar (\$1). The charter school must begin to use the school building for classroom instruction not later than two (2) years after acquiring the school building. If the school building is not used for classroom instruction within two (2) years after acquiring the school building, the school building shall be placed on the department's list under subsection (f). If during the term of the lease the charter school closes or ceases using the school building for classroom instruction, the school building shall be placed on the department's list under subsection (f). If a school building is sold to a charter school under this subsection and the charter school or any entity related to the



charter school subsequently sells or transfers the school building to a third party, the charter school or related entity must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the school building) to the school corporation that initially sold the vacant school building to the charter school. Gain and adjusted basis shall be determined in the manner prescribed by the Internal Revenue Code and the applicable Internal Revenue Service regulations and guidelines.

(i) During the term of a lease under subsection (h), the charter school is responsible for the direct expenses related to the school building leased, including utilities, insurance, maintenance, repairs, and remodeling. The school corporation is responsible for any debt incurred for or liens that attached to the school building before the charter school leased the school building.

(j) Notwithstanding anything to the contrary in this section, and with the sole exception of a waiver provided in subsection (n), when a school building is designated as "Available" under subsection (g), the school building must remain designated as "Available" and may not be sold or otherwise disposed of for at least two (2) years. When the two (2) year period has elapsed, the school corporation may sell or otherwise dispose of the school building in accordance with IC 36-1-11.

(k) Notwithstanding subsection (e), a governing body may request a waiver from the department from the requirements of subsection (e). In order for a governing body to receive a waiver under subsection (n), the governing body must apply to the department, on a form prescribed by the department, for the waiver. The application must include a statement that the governing body believes that a charter school would not be interested in leasing or purchasing the vacant or unused school building.

(l) If the department receives a waiver request under subsection (k), the department, within five (5) days after receiving the waiver request under subsection (k), shall notify each charter school sponsor and statewide organization representing charter schools in Indiana by certified mail of the waiver request received under subsection (k). The notice must include a copy of the governing body's waiver request.

(m) Not later than thirty (30) days after a charter school sponsor or statewide organization representing charter schools in Indiana receives a notice described in subsection (l), the charter school sponsor or a statewide organization representing charter schools may submit a qualified objection to the governing body's request for a waiver under subsection (k). The qualified objection must be submitted to the



department in writing. In order for an objection to be considered a qualified objection by the department, the objection must include:

- (1) the name of the charter school that is interested in leasing or purchasing the vacant or unused school building; and
- (2) a time frame, which may not exceed one (1) year from the date of the objection, in which the charter school intends to begin providing classroom instruction in the vacant or unused school building.

(n) If the department receives a qualified objection under subsection (m), the vacant or unused school building shall remain on the department's list under subsection (f) with the designation with which the building is listed under subsection (g) at the time the department receives the waiver request. If the department does not receive a qualified objection, the department shall grant the governing body's request for a waiver. A governing body that receives a waiver under this subsection may sell or otherwise dispose of the unused or vacant school building in accordance with IC 36-1-11.

SECTION 5. IC 20-31-9-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 9. (a) Not later than December 31 of the fifth year of an intervention under this chapter, the state board shall take one (1) of the following actions:**

- (1) Return the school to the school corporation for operation.**
- (2) Direct the special management team to apply to a charter school authorizer for charter school status for the school.**
- (3) Implement a new intervention under section 4(b) of this chapter.**

**(b) In making a determination under this section, the state board may consider all relevant factors, including the overall performance of the school corporation and the special management team.**

**(c) Before making a final determination to take an action under subsection (a), the state board shall hold at least one (1) public hearing in the school corporation in which the school is located during the fall semester of the fifth year of an intervention to consider and hear testimony.**

**(d) If the state board directs the special management team to apply for charter school status under subsection (a)(2), the school is entitled to continue to use the school's facilities in the same manner as a charter school that acquires school facilities under IC 20-26-7-1 is entitled to use school facilities.**

SECTION 6. IC 20-31-9.5-7, AS ADDED BY P.L.160-2012,





SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) If the state board assigns a special management team to a school, the state board shall enter into a contract with a special management team that includes the following provisions:

(1) A requirement that the special management team and the governing body conduct a public meeting two (2) times each year to provide a report concerning:

(A) student achievement of affected students; and

(B) the condition of the school property and to address issues related to the school property.

(2) A requirement that the student instruction must be provided by teachers licensed under IC 20-28-5.

**(3) A specification that the length of the contract is five (5) years.**

(b) Individuals employed by the special management team are entitled to participate in either:

(1) the state teachers' retirement fund created by IC 5-10.4; or

(2) the public employees' retirement fund created by IC 5-10.3.

(c) Employees of a special management team are not required to organize and collectively bargain under IC 20-29-6.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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